

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL

AN INVESTIGATION CONCERNING ALLEGATIONS
THAT HERBERT TEITELBAUM, EXECUTIVE
DIRECTOR OF THE COMMISSION ON PUBLIC
INTEGRITY, DISCLOSED INFORMATION
CONCERNING THE COMMISSION'S INVESTIGATIONS

August 27, 2008
10:09 a.m.

EXAMINATION BEFORE TRIAL of
LLOYD CONSTANTINE, held at the offices of
STATE OF NEW YORK OFFICE OF THE INSPECTOR
GENERAL, 61 Broadway, New York, New York
before Wayne Hock, a Notary Public of the
State of New York.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S :

STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL
61 Broadway
New York, New York 10006

BY: JOSEPH FISCH, ESQ.
ARLENE S. OSTERER, ESQ.

* * *

1

2 MR. FISCH: Today is Wednesday,
3 August 27, 2008. I'm Joseph Fisch,
4 Inspector General of New York.
5 Present with me is Arlene Osterer of
6 my office. We are in the New York
7 City office of the IG at 61 Broadway.
8 Present is Mr. Lloyd Constantine.

9 Mr. Constantine, you're
10 appearing voluntarily in response to
11 my telephone call?

12 THE WITNESS: I am.

13 MR. FISCH: And you consent to
14 this interview being recorded
15 stenographically?

16 THE WITNESS: I do.

17 MR. FISCH: Would you rise,
18 please.

19 L L O Y D C O N S T A N T I N E, having
20 been first duly sworn by a Notary Public
21 of the State of New York, upon being
22 examined, testified as follows:

23 EXAMINATION BY

24 MR. FISCH:

25 Q. Mr. Constantine, before we

1 L. Constantine
2 began, I showed you a transcript of
3 testimony of your interview by the Albany
4 district attorney, Mr. Soares, on
5 February 25, 2008, and you advised us of
6 the basic accuracy with the exception of
7 perhaps one typo and we're going to make
8 that change.

9 A. Yeah, I've actually -- I went
10 through the testimony. It's basically all
11 accurate. I put a pink tab each place
12 there was a typographical error. And as I
13 indicated to your colleague, there's one
14 typographical error which I think is
15 substantive. It's a confusion on a name
16 and I made that correction. So I have
17 tabbed what appears to be around a dozen.
18 But in each case, they involve names as
19 opposed to any difference in fact.

20 Q. What I will do, Mr. Constantine,
21 is merely adopt and incorporate your
22 interview with Mr. Soares as part of our
23 record and investigation without
24 objection.

25 A. Thank you.

1 L. Constantine

2 Q. As I advised you by telephone,
3 the DA had, by letter of July 26, referred
4 to us an investigation of allegations that
5 Herbert Teitelbaum, executive director of
6 the Public Integrity Commission, had
7 improperly disclosed information
8 concerning activities of the commission
9 and it was in that connection that you
10 were interviewed by DA Soares.

11 Rather than repeat everything
12 that's already on the record, I just want
13 to flesh out some parts of that.

14 You said that the communications
15 you had with Robert Hermann you divide
16 into basically two time periods, one July
17 and August of 2007 and a later one which I
18 think we've established was November 1 of
19 2007, all having taken place -- was it all
20 in New York City or some telephone
21 conversations while you were in Albany or
22 what?

23 A. In the earlier time frame, which
24 is late July and early August of 2007,
25 those were, as I previously indicated to

1 L. Constantine
2 the DA and which has now been adopted in
3 this record, those were five to six
4 conversations. Some were in person, some
5 were on the phone, and I believe that they
6 occurred both in New York City and in
7 Albany and, in one case, it occurred when
8 I was in the city of Skaneateles near
9 Syracuse upstate and Bob was someplace. I
10 don't know where he was. He was either in
11 Albany or New York City.

12 Q. I believe we established that
13 that one you referred to a diary that your
14 secretary had kept, it was August 6, 7,
15 or 8, around that time?

16 A. I pinned that down. I was
17 upstate visiting SUNY campuses, campuses
18 of the State University of New York for
19 four days and three nights and so, as I
20 testified, as I previously testified, we
21 got it down to that phone call occurred I
22 believe either on the seventh or the
23 eighth or the ninth or the sixth, seventh,
24 or eighth. Whatever. It was accurate in
25 the transcript.

1 L. Constantine

2 Q. In all such conversations, I
3 believe you testified that Hermann
4 prefaced his remarks basically by saying
5 Herb said or Herb told me this; is that
6 correct?

7 A. That's correct.

8 And I should also say, just
9 based upon your recitation, you say that
10 you have confirmed that the latter
11 conversation, which I testified occurred
12 either on October 31 or November 1, you
13 have ascertained that it was on
14 November 1. I have no reason to doubt
15 you. But in my mind, I still -- it was
16 either on October 31 or November 1.

17 Q. What we said that we were able
18 to establish, assuming the accuracy of the
19 swipe card record which is recorded
20 whenever somebody goes through the
21 turnstile or whatever one would call it at
22 633 Third Avenue, we established that he
23 was in Albany on the 31st of October and
24 his appearance in New York City was
25 November 1.

1 L. Constantine

2 A. I have no reason to doubt that.

3 Q. Prior to that, during the five
4 or six July/August communications, I
5 believe you said that you had discussed
6 this with Robert Rifkin because you were
7 unhappy or disturbed by the fact that
8 Hermann was coming directly to you?

9 A. I had discussed this with
10 Richard Rifkin. Richard Rifkin at the
11 time was special counsel to the governor.
12 He was working with me and with others on
13 the responses to the attorney general's
14 investigation, to the then inspector
15 general's investigation, and to the
16 nascent investigation being conducted by
17 the then Ethics Commission which is now
18 the Integrity Commission. I had been
19 designated as special counsel to the
20 governor. He was already special counsel
21 to the governor. So there was a small
22 group of senior attorneys on the second
23 floor in the executive chamber who were
24 handling responses to the various
25 investigations.

1 L. Constantine

2 And after the fourth or fifth of
3 these communications between Hermann and
4 me where he was conveying information from
5 Herb Teitelbaum in the nature of advice to
6 the executive chamber about how we should
7 respond more quickly, more expansively, et
8 cetera, as I testified, after the fourth
9 or fifth of these I became concerned. I
10 did not know exactly what the rules were,
11 but I did know that Richard Rifkin had
12 been executive director of the Ethics
13 Commission and Richard Rifkin and I had
14 worked together in the attorney general's
15 office many years before.

16 So I went to him and I asked Mr.
17 Rifkin, I said it's apparent that Mr.
18 Teitelbaum is talking to Bob Hermann about
19 their investigation, the details of the
20 investigation, and it's also apparent to
21 me that Mr. Teitelbaum is trying to get
22 messages to me through Bob Hermann and is
23 that okay, is that kosher. And Rifkin
24 immediately said no, it's not. It
25 violates the statute that they are

1 L. Constantine
2 operating under. He's talking to somebody
3 who is not in the executive chamber, he's
4 talking to somebody who is not involved in
5 the response to these investigations. It
6 may be well-motivated. He may think he's
7 doing somebody a favor but he's violating
8 his own -- the statute which he's
9 operating under. You should not be
10 talking to Hermann about these things. If
11 and when it occurs again, please direct
12 Bob Hermann to cease these conversations
13 with Teitelbaum and to not tell you
14 anything about it.

15 And the next time it occurred
16 was that phone call I got when I was in
17 Skaneateles and I said stop, I'm telling
18 you, Bob, Herb Teitelbaum should not be
19 conveying this information to you and you
20 should not be telling me these things and
21 I direct you to cease having these
22 conversations with him and I direct you,
23 even if you do continue, I don't want to
24 hear about it.

25 Q. You said you told Rifkin that

1 L. Constantine
2 Hermann had provided you with information
3 from Teitelbaum concerning the details of
4 their investigation?

5 A. The details of the investigation
6 in the following sense.

7 Again, I was one of the
8 attorneys that was helping to prepare the
9 these then three investigations: AG, IG,
10 Ethics Commission, forerunner of the
11 Integrity Commission. So I was aware of
12 what was being requested in terms of
13 documents and I was also aware of which,
14 if any, witnesses they were seeking to
15 interview or put under oath. And many of
16 these conversations involved a particular
17 category of document or a particular
18 witness. There were details, as in any
19 investigation, and you're certainly
20 incredibly experienced in this, there's a
21 question of which documents come in, which
22 witness will come in, what, if anything,
23 will be the details of the counsel
24 arrangement. There were issues that arose
25 from time to time as to whether or not an

1 L. Constantine
2 attorney from the executive chamber, from
3 the governor's office will be able to
4 prepare a particular witness who is going
5 to testify before the Ethics Commission,
6 whether or not an attorney from the
7 executive chamber would be present at the
8 interrogation of that witness, and there
9 was a lot of that going on. Some of these
10 conversations that apparently -- and I say
11 apparently because I was never present at
12 a conversation that Bob Hermann had with
13 Herb Teitelbaum, I was just getting this
14 secondhand -- but apparently during a
15 conversation, there was very specific
16 discussion of particular witnesses,
17 particular categories of documents,
18 particular privileges that the executive
19 chamber was asserting or thinking of
20 asserting, and most of these conversations
21 were, you know, you're taking this
22 position with respect to this witness,
23 you're taking this position with respect
24 to this category of documents, you're
25 taking this position with respect to this

1 L. Constantine
2 asserted privilege, you shouldn't be doing
3 this, you shouldn't be doing this, you
4 shouldn't be doing this.

5 So I think it got -- and again,
6 I wasn't present there, but given what Bob
7 Hermann was telling me it was quite
8 specific as to what the Ethics Commission
9 was asking for and what we were responding
10 to. And as I previously testified, I was,
11 during this very same time, meeting with
12 Mr. Teitelbaum at the Ethics Commission
13 always with one or more other attorneys.
14 Once I know for a fact I was there with
15 both Richard Rifkin and Peter Pope. I
16 believe on another occasion I was there
17 with one or the other of those gentlemen
18 plus Sean
19 Maloney. So I was, in an official
20 capacity, meeting with them. And this was
21 going over the same ground as we were
22 negotiating at that point when this
23 particular witness would come in, when we
24 would produce these particular documents,
25 whether or not we would assert a

1 L. Constantine
2 particular privilege, attorney-client
3 privilege, work product privilege,
4 whatever the privilege was at that point
5 in time.

6 Q. So Herbert was providing you
7 with specifics concerning names of
8 witnesses and specific documents or
9 records?

10 A. Yes, yes. It was very specific
11 down to classes of documents, very
12 specific in terms of the invocation or not
13 of specific privileges, and I think
14 frankly this was too early a time where
15 there was much discussion about a
16 particular witness. Because at this point
17 they still wanted to get the documents,
18 you know, so it was more -- they were
19 conducting -- the first thing is you get
20 the documents and then you figure out who
21 you're going to call in what order.
22 Although at the earliest point there was
23 discussion of bringing in the governor.
24 And we did convey directly to the -- to
25 Mr. Teitelbaum and to his subordinates at

1 L. Constantine
2 the Ethics Commission that the governor
3 was ready, willing, and able to come in,
4 but likely both they and we desired that
5 the governor be the last witness.

6 Q. During this time period,
7 July/August, you had meetings with
8 Teitelbaum, you said you were accompanied
9 sometimes by Sean Maloney, Rifkin, and so
10 on.

11 Did you ever ask Teitelbaum,
12 take him on the side and say Herb, what
13 are you dealing with Bob Hermann for, why
14 not with me?

15 A. Never, I never did that. And I
16 believe I previously testified that I
17 never did that.

18 I can explain why.

19 Q. Please.

20 A. I would not characterize the
21 relationship between the lawyers doing
22 this work for the governor and the Ethics
23 Commission at the earliest point in time
24 as being an adversarial relationship, but
25 it at least had some of those contours.

1 L. Constantine
2 So that I felt that I was in a traditional
3 position of, quote, defending an
4 investigation. While we had been directed
5 by the governor to give them whatever they
6 needed, still when you get a subpoena,
7 when you get a request for documents, the
8 first thing that you do is you read it and
9 there was -- although I wouldn't call it
10 adversarial, I was defending it.

11 Frankly, I was very puzzled by
12 this course of conduct where these
13 meetings were taking place and then these
14 other conversations were occurring. I did
15 not want to antagonize my, you know --
16 again, I don't want to say opponent and I
17 don't want to say adversary, but the
18 people on the other side of this thing. I
19 had real concerns about it. But also
20 having been in this position myself,
21 having done government investigations both
22 on the state level and on the federal
23 level and having been on all sides of this
24 thing, I always think it's a bad idea to
25 pick a fight early on and to say, you

1 L. Constantine
2 know, you, you the Ethics Commission, are
3 violating a rule. So I was reluctant to
4 take that point. I wanted to get through
5 this, I wanted to get them what they
6 needed, I wanted to get the investigation
7 moving, and perhaps I should have said it.
8 But I did not.

9 Q. When Hermann communicated these
10 conversations, this information from
11 Teitelbaum, did it include any type of
12 indication that Teitelbaum intended the
13 information to go to you? In other words,
14 he gave it to Hermann and was Hermann's
15 mission specifically to communicate this
16 to you?

17 A. I thought two things were going
18 on. I thought there was -- they were
19 talking, that Herb was conveying this
20 information to Hermann simply to convey
21 the information to Hermann. As I
22 previously testified, they're close
23 friends, they're former law partners, they
24 live near each other in a housing complex
25 somewhere near Albany, and they're both

1 L. Constantine
2 very experienced lawyers, et cetera, so I
3 think he was simply talking out of school,
4 A. But I also believe, without knowing, I
5 also believe that there was an intention
6 here to get information to me through
7 Hermann that, for whatever reason, he did
8 not want to simply convey to me when I was
9 flanked by other attorneys from the
10 chamber.

11 To me -- and again, this is rank
12 speculation, your Honor, but to me there
13 was a kind of good cop/bad cop element to
14 this with me being the good cop and with
15 the other attorneys from the executive
16 chamber being the bad cop. I think what
17 he was saying, my sense of this was,
18 Lloyd, I know you, I can deal with you, we
19 are old -- you know, we are the greyer
20 hair people here, we battled twenty-five
21 years ago. I conducted investigations of
22 his clients when I was in the attorney
23 general's office and he was in private
24 practice. We took a case all the way to
25 the Court of Appeals. So I think what was

1 L. Constantine
2 going on here is you and I are older,
3 wiser, smarter, and I'm trying to find a
4 mechanism to talk to you separately.
5 You're sitting here with either Maloney or
6 Pope or Rifkin or Nocenti and they are
7 young hotheads so I have devised this
8 mechanism to get this information to you
9 separately. All of this is sort of what I
10 would say is well-intentioned, but it is
11 what it is and I am speculating here.

12 Q. Now, Hermann was not part of the
13 executive chamber at that point?

14 A. No, he was not, and he was not
15 involved in the defense of these matters.
16 And the problem -- I don't know whether
17 you want me to say this -- but the problem
18 is these investigations, and I think
19 you're well aware of how many there were.
20 As we sit here now, it's somewhere, you
21 know, it's a matter of concern that this
22 is the second inspector general's
23 investigation into this broad area, not
24 the specific area but this broad area.
25 There was an attorney general

1 L. Constantine
2 investigation, there was a senate
3 investigation committee investigation
4 which may be ongoing, there were two
5 separate investigations by the Albany
6 district attorney, there was the Ethics
7 Commission investigation which turned into
8 the Integrity Commission investigation,
9 and there was a rumor of an investigation
10 by the State Investigation Commission.
11 And there were constant leaks in the press
12 about everything that was going on and
13 there was a proliferation of
14 investigations. And the more people that
15 you talk to, even if they are your best
16 friend, you can't just do it. You can't
17 talk to people who are not entitled to
18 hear things.

19 My wife and I have both been
20 government officials. She was at the U.S.
21 Attorney's office, she was at the Federal
22 Trade Commission. I was in the governor's
23 office, I was in the attorney general's
24 office. At some point I was deputized to
25 the federal government. And we just had a

1 L. Constantine
2 rule in the house we didn't talk to each
3 other. I did not know what she was doing;
4 she did not know what I was doing, you
5 know. You just can't do that stuff.
6 Whether or not it was well-motivated, it
7 just was wrong. Again, this is just
8 opinion on my part.

9 That's why I went to Rifkin and
10 said what is going on here, is this okay,
11 and he directed me and I then directed
12 Hermann to cease and desist.

13 Q. Because Hermann was not part of
14 the executive chamber, his receipt of this
15 information could not go anywhere through
16 him. He was not in a position to go to
17 the governor with this or to go to --

18 A. Objection. Calls for a legal
19 conclusion. Of course you're right.

20 Q. Did Hermann ever tell you why
21 Teitelbaum was giving him this information
22 or why he wanted -- why he was giving him
23 the information?

24 A. Well, not other than to say Herb
25 thinks this, it's too slow, you know, you

1 L. Constantine
2 ought to be more forthcoming, faster, et
3 cetera. In other words, again, and
4 consistent with my speculation, he never
5 said to me Herb wants to go through this
6 route through me because he doesn't think
7 that Pope is forthcoming. He never said
8 that to me.

9 Q. Before we began, I showed you --

10 A. And by the way, I forgot to say
11 something, which is I am positive that in
12 the earlier time frame, meaning late July
13 and early August of 2007, there were two
14 elements to these communications which I
15 have secondhand knowledge of, the
16 communications between Teitelbaum and
17 Hermann. One is they were talking and the
18 other one was to get a message to me.

19 As I previously testified, I do
20 not believe -- I don't know, I have no
21 information that the second communication
22 between Teitelbaum and Hermann was
23 intended to get to me. It did not have
24 that sense of Herb thinks this or Herb
25 thinks that. So in the earlier time frame

1 L. Constantine
2 I believe it was clearly intended to get
3 to me. In the second time frame, I have
4 no information which suggests that it was
5 supposed to get to me.

6 Q. Mr. Constantine, there's an
7 e-mail from Hermann to you on July 26,
8 2007 about 3:09 p.m. I showed this to you
9 before to see whether this would refresh
10 your recollection about these
11 conversations.

12 A. (Reviewing).

13 Yes, I've read it.

14 Q. Do you know specifically what
15 material information that message refers
16 to?

17 A. No, I don't.

18 Q. It would have been along the
19 same lines?

20 A. Yes.

21 Q. Did you make any notes about
22 these conversations?

23 A. I did not.

24 Q. I'd like now to turn to that
25 second time period which suggests it was

1 L. Constantine
2 October 31 or November 1. We think from
3 the records that it was probably
4 November 1 based upon his appearance in
5 New York City on November 1 but not on
6 October 31.

7 I'm going to ask you to repeat
8 some things you've already testified to,
9 but there's a method to my madness.

10 A. That's fine.

11 Q. You're at a meeting, I believe,
12 and a couple of messages, two messages or
13 so where Hermann wants to get you out of
14 the meeting because he had some
15 information for you.

16 Can you pinpoint roughly the
17 time of the day? We have him appearing in
18 New York on November 1 at about 2:33.
19 Would it be in the afternoon; do you
20 recall?

21 A. I believe so.

22 Q. Do you remember who you were
23 meeting with?

24 A. I don't.

25 Q. Again, go through it again. I

1 L. Constantine
2 apologize for the repetition but there's a
3 reason for it. Walk us through exactly
4 what happened.

5 A. I'm in the offices at 633 Third
6 Avenue. I'm having a meeting. I get
7 several messages from Hermann that he has
8 to talk to me. These messages are brought
9 in by hand by my secretary, Jennica
10 Hawkins I believe, and I said I can't
11 break out of my meeting. I'm annoyed.
12 Eventually I break out of the meeting
13 because he is so insistent, he being
14 Hermann, is so insistent that I break out.
15 So I break out and say okay, what is so
16 important that you're dragging me out of a
17 meeting that can't wait.

18 Q. Is this the first time you saw
19 him that day?

20 A. Yes, first time I saw him. And
21 he says, I just have to get you this
22 information, it's very important. And I
23 know you're going to have to reveal this
24 information to the governor but you cannot
25 reveal to the governor who gave you the

1 L. Constantine
2 information. Again, I'm just very annoyed
3 about this. And I said, look, tell me
4 what it is you have to tell me. I did not
5 promise not to reveal who gave me the
6 information. And he said and he conveyed
7 the body of information which I previously
8 testified to which was as follows: That
9 the Integrity Commission -- now the
10 Integrity Commission -- had referred to
11 the Albany district attorney a matter and
12 that matter being they had determined, the
13 Integrity Commission had determined that
14 sworn testimony that had been given by
15 Darren Dopp before them was either
16 perjurious or constituted false swearing
17 or at least was inconsistent with other
18 sworn testimony or statements that he had
19 made and that a referral -- and this was
20 very specific -- a referral had been made
21 to the district attorney of this potential
22 perjury, false swearing, or inconsistency
23 claim. And that in addition to that, this
24 was a matter of such gravity at the
25 Integrity Commission that they had formed

1 L. Constantine
2 a special group of five people comprised
3 of the executive director, Herb
4 Teitelbaum, and four of the commissioners
5 including the chairman of the commission,
6 John Feerick, Loretta Lynch, and two
7 others who were -- all had prior law
8 enforcement background and were reliable
9 in some sense because the Integrity
10 Commission was aware that there had been
11 significant leaks of information about
12 their proceedings and about how they were
13 doing their investigation that they
14 recognized that there had been leaks, many
15 leaks to the press, and therefore they had
16 created this subgroup within the Integrity
17 Commission and they were the only people
18 who knew about this or who had access to
19 the information.

20 Actually, in reviewing my
21 transcript, Hermann at that point said,
22 and they know who at least one of the
23 leakers is. And he mentioned -- the guy
24 was a name Gruenberg who I gather is one
25 of the commissioners. They know that

1 L. Constantine
2 Gruenberg is leaking information to the
3 press and at least one other commissioner
4 but there was no other name attached to
5 the other commissioner. But they know
6 that Gruenberg is leaking information to
7 the press and they know there is another
8 leaker within the commission which is why
9 they have formed this committee of five to
10 be the only ones who have access to this
11 information and this highly sensitive
12 information and it's been referred to the
13 DA and I know that you need to know this,
14 I know that the governor needs to know
15 this but you can't tell the governor that
16 I'm the source of the information.

17 That was the sum and substance.

18 Q. Did he also mention Howard
19 Levine, the former --

20 A. Yes, Levine was one -- I
21 remember three of the names of three of
22 the four commissioners. I remember that
23 Teitelbaum was part of the group of five.
24 I knew that Howard Levine was. I knew
25 that Loretta Lynch was and I knew that

1 L. Constantine
2 Feerick was. I did not know who the
3 fourth one was as a result of this
4 conversation. I have subsequently found
5 out but I did not know. He did not convey
6 that to me. He said there's four
7 commissioners including Feerick, including
8 Lynch, including Howard Levine. He did
9 not tell me who the fourth commissioner
10 was. And then there was Teitelbaum.

11 Q. Did he mention that Andrew Cuomo
12 brought a statement -- the statement that
13 Dopp had given to Andrew Cuomo?

14 A. Yes. Again, I am not clear
15 whether -- and he was certainly not clear
16 as to whether or not this referral was we
17 think he's perjured himself or we think
18 he's falsely sworn or we think there's an
19 inconsistency between those two sworn
20 statements. And you know better than I do
21 that these are very, very technical
22 issues. I've prosecuted perjury and it's
23 a very, very specific offense. He did not
24 go into detail with that. If this was
25 based upon inconsistency or the assertion

1 L. Constantine
2 of perjury or false swearing was in
3 contrast to something else, it was in
4 contrast to the sworn statement that Dopp
5 had given to Attorney General Cuomo. You
6 know and I know that subsequently whether
7 or not that statement actually was sworn
8 was called into question in another one of
9 the mind-numbing, you know, aspects of
10 this whole thing.

11 Q. Your earlier testimony said that
12 he told you that the commission had done a
13 number of things, a bunch of things.

14 Did he describe it that way?

15 A. Yes.

16 Q. How long did this conversation
17 last?

18 A. I believe it lasted around
19 fifteen minutes.

20 Q. Fifteen minutes?

21 A. Yes, I believe so. And I
22 believe -- although the information I've
23 just testified to could be, you know,
24 conveyed in a couple of minutes, I quizzed
25 him; what do you know, how do you know,

1 L. Constantine
2 when did you know it, so I went over it
3 two or three times. I think I've
4 previously testified to this, although he
5 was shaking and distressed by this, I did
6 not view this as being of, you know, of
7 the same magnitude that he viewed it. I
8 mean, it was distressing on some level but
9 we were in the middle of a very
10 distressing series of events and a very
11 distressing year and all of that. For me,
12 while it was distressing and it was of
13 concern, I was not shaking at the end of
14 this conversation. I was still frankly
15 annoyed that I had been pulled out of a
16 meeting. I still think even today that he
17 could have waited until I got out of the
18 meeting.

19 Q. You said he was sweating?

20 A. He was sweating and --

21 Q. Shaking, and you said he was in
22 such a state that you thought someone had
23 died?

24 A. Yes.

25 This is a close friend of mine,

1 L. Constantine
2 this is a very experienced lawyer, this is
3 my former boss in the attorney general's
4 office, this is the former Solicitor
5 General of the State of New York, this is
6 a man I've seen argue before the United
7 States Supreme Court brilliantly, so this
8 is not a kid. And therefore, when I see a
9 man of his stature and intelligence and
10 sensitivity like this, I thought somebody
11 had died.

12 Q. You asked him how he got the
13 information?

14 A. I don't believe I specifically
15 did, and I have more to tell you about
16 that.

17 Q. Please.

18 A. Let me tell you everything I
19 know.

20 Q. Before we get to the following
21 week, I want to zero in on November 1.

22 A. You just asked me what I know
23 about how Mr. Hermann got the information
24 which he conveyed to me. This is what I
25 know, and I know it in three distinct

1 L. Constantine
2 periods of time.
3 The first is obviously on the
4 date that he conveyed it to me, which you
5 have pegged as being November 1, 2007 and
6 which I previously testified occurred on
7 November 1 or October 31, 2007. On that
8 day, he did not say to me Herb told me
9 this and I did not ask him. And the
10 reason I didn't ask him is because I knew,
11 to the best of my knowledge, that the
12 previous set of communications, meaning
13 the communications which occurred in July
14 and August of 2007, had been conversations
15 between Mr. Teitelbaum and Mr. Hermann and
16 that was clear and unequivocal. And
17 therefore when information of a similar
18 nature was now being given to me, my
19 assumption was that it had occurred in the
20 exact same way, that Herb Teitelbaum had
21 told it to Hermann and that Hermann was
22 now telling it to me. Although I previous
23 said I'm not sure in the second
24 communication it was intended ultimately
25 to go to me, but I was certain at that

1 L. Constantine
2 moment that the information had been
3 conveyed to Mr. Hermann in a conversation
4 with Mr. Teitelbaum. So that was my
5 assumption and that's all I knew that day.

6 Then roughly a week later I met
7 with Bob Hermann and Bob --

8 Q. Hold on for a minute.

9 Getting back to November 1, did
10 he mention any people in the chamber who
11 might have been suspected of being
12 complicit in the composition of Dopp's
13 statement to the attorney general?

14 A. No. But I was fully aware of --
15 I knew how Dopp's statement had been put
16 together. I wasn't myself part of that
17 group. I wasn't involved in it. But I
18 knew because I had been around.

19 Q. Did you ask him at this time why
20 he did not want anyone to know that he was
21 the source of the information?

22 A. No. What I did say to him is
23 how in the world can you expect me to walk
24 into Eliot, to the governor, and tell him
25 this. I said there's a metaphysical

1 L. Constantine
2 possibility that he won't ask me how I
3 know but he's a good lawyer and he's going
4 to say how do you know this. I did say to
5 him that's really a ridiculous request
6 that you ask me to, you know, to not
7 convey how I got this information and I
8 didn't make a promise. I also didn't
9 promise I would reveal it but I did say to
10 him, look, unless I am completely wrong
11 here, when I convey this information to
12 the governor, which I will, he's going to
13 ask me how I got it.

14 Q. Mr. Constantine, at your earlier
15 testimony before the DA, you said he told
16 me he came by this information because
17 Herb Teitelbaum conveyed it to him.

18 A. He didn't specifically say that
19 to me. That was my surmise based on this
20 prior course of conduct.

21 Q. There came a time when you told
22 the governor?

23 A. As I previously testified, I did
24 two things. I called ethics counsel, a
25 guy name Lieberman, Hal Lieberman, for

1 L. Constantine
2 advice on how to proceed. And I also told
3 the governor. I don't know in which order
4 I did this, but I did those both forthwith
5 right that day.

6 Q. Did you reveal to Lieberman or
7 to Spitzer the information came from
8 Hermann?

9 A. Absolutely, yes.

10 My concern, frankly, was how to
11 proceed with the district attorney. I
12 thought once we were in possession with
13 this information -- I should step back for
14 a second.

15 While this was all going on I
16 thought that the Integrity Commission
17 could have just called us up and said we
18 have referred this to the district
19 attorney. It didn't seem to me -- again,
20 there's not a lot of things in this whole
21 course of conduct which make a lot of
22 sense to me, your Honor, but that in
23 particular -- again, I did not -- so I was
24 just confused. And when I am confused
25 about such things, I call ethics counsel.

1 L. Constantine
2 This was an attorney who had been on
3 retention to my law firm as ethics
4 counsel, this is an attorney that I had
5 retained when I ran Eliot Spitzer's
6 transition to attorney general of New
7 York, this was a lawyer that I recommended
8 that the transition retain when -- in the
9 transition to governor and I think we did
10 use him for some -- so this was an
11 experienced ethics lawyer.

12 Q. I know the name. He had been
13 with the disciplinary committee.

14 A. He was the head of the First
15 Department disciplinary committee.

16 I said, what do I do with this?
17 I don't even know how to think about this,
18 what to do. So I went to him and I went
19 to Eliot and I told them exactly what
20 Hermann had told me precisely as best as I
21 could remember it and it was pretty good
22 because it was the same day.

23 MR. FISCH: I want to take a
24 five-minute break.

25 (Whereupon a break was taken)

1 L. Constantine

2 Q. The November 1 meeting that you
3 described, you did not have a particular
4 appointment with Herbert that day; did
5 you?

6 A. No. When he used an office
7 at 633, we would almost inevitably run
8 into each other or find an opportunity to
9 grab a cup of coffee or something like
10 that or have lunch.

11 Q. There is an e-mail. Apparently
12 he was thinking of seeing you around 3:00.

13 A. (Reviewing).

14 I don't know how to construe
15 this because I don't know whether --

16 Q. It may have been unrelated.
17 Take a look at that.

18 A. (Reviewing).

19 My assumption is that this
20 e-mail, which is from Jennica Hawkins to
21 Lloyd Constantine and Dan Doktor and
22 Haley Plourde-Cole, that all of this
23 relates to these issues having to do with
24 IOLA and civil legal services.

25 Q. So he was going to meet with you

1 L. Constantine

2 on another matter that day?

3 A. Yes, but the reference here on
4 this e-mail is to 10/31. I'm confused
5 whether or not this relates to a 3:00 slot
6 in New York City the next day or a 3:00
7 slot in Albany that day. I'm not sure.

8 Q. It said that Hermann asked that
9 he meet with you tomorrow in the city at
10 3:00 p.m. as he'll be in Albany at 10:00
11 when you had an original scheduled
12 meeting.

13 A. I believe that all of that then
14 relates to these issues (referring).

15 Q. I ask -- so it does appear that
16 he may have had some other purpose in
17 meeting with you on the first in New York?

18 A. Yes. We had a number of
19 projects that we were working on together
20 and at that point in time the one that was
21 most active was the attempt to, as I told
22 you during our informal conversation, was
23 the attempt to revamp the IOLA board and
24 to create a de facto office of civil legal
25 services in the state to coordinate all of

1 L. Constantine

2 the various funding streams.

3 Q. So it would appear that,
4 unrelated to the conversation he had with
5 you about the ethics committee, he did
6 want to meet with you?

7 A. Yes, and we were frequently
8 meeting and dealing with these issues
9 almost on a daily basis.

10 Q. I ask because, and this is
11 highly speculative, did the condition he
12 presented to you, the nervousness,
13 shaking, and such urgency, give you the
14 impression that he had just come by this
15 information shortly before he reached out
16 to you?

17 A. Yes. I cannot imagine that
18 anybody that nervous could have contained
19 this information for a very long period of
20 time, but I don't know. That's rank
21 speculation.

22 I'd like to, if I could, tell
23 you about the second and third waves of
24 this.

25 Q. I thought you'd never ask.

1 L. Constantine

2 A. And then I think you can ask
3 some questions on that.

4 And I am time constrained, so if
5 I have to come back, I will.

6 So now after that day,
7 November 1, around a week later I met with
8 Hermann. And, as I previously testified,
9 at that meeting he said I know Herb
10 Teitelbaum really well. He is capable of
11 almost anything to protect himself.

12 Q. Is this something he came out
13 with before you even said anything?

14 A. Well, I don't know, but we were
15 talking about this. We were talking about
16 the information he had conveyed to me the
17 week before and there had been some
18 developments in the week after.

19 Q. You said before the DA that you
20 had asked him why it was so important not
21 to reveal him as the source.

22 A. Yes.

23 Q. So was it in response to a
24 question or did he just come breaking down
25 your door to tell you this?

1 L. Constantine

2 A. We might have been meeting with
3 something else. Remember, he did not work
4 on the second floor, he worked in one of
5 the towers. He had to come over to my
6 office and we might have talked about
7 other things as well. But clearly he
8 wanted to talk about this.

9 As I previously testified to
10 you, again, I did not view all of this
11 information as being nearly as earth
12 shaking as he did. It was concerning, it
13 was troubling, but it wasn't, you know,
14 the end of the world as far as I was
15 concerned. And the subject matter of why
16 you, who are so experienced and such a
17 sophisticated lawyer, why is this, you
18 know, of such troubling magnitude to you
19 and why you're so concerned about your
20 identity being revealed on this. And it
21 was in the context of that conversation
22 that he said Herb Teitelbaum is capable of
23 doing almost anything to protect himself
24 and I said, like what. And he said he's
25 capable of saying that I stole this

1 L. Constantine
2 information as opposed to him telling it
3 to him. And I said, you think that of
4 your best friend or one of your best
5 friends? I said, that's pretty shocking,
6 Bob. And that's all.

7 Now, that's all except, as I
8 previously testified, when he said this to
9 me, it planted a seed of doubt in my mind
10 as to exactly how this information had
11 gotten to him. In other words, when I was
12 questioned about this at the DA's office,
13 I volunteered this information. In other
14 words, as I've testified to you today, my
15 assumption was Herb Teitelbaum had told
16 him this information and then he told it
17 to me. By virtue of this additional
18 communication which occurred around a week
19 after October 31 or November 1, I had a
20 little seed of doubt in my head as to
21 exactly how this information had gotten to
22 me and therefore I felt duty bound to tell
23 the district attorney about it without
24 drawing any conclusions. And that's all I
25 knew as of that. All I knew is that he

1 L. Constantine
2 said that Herb Teitelbaum is capable of
3 saying that I essentially stole the
4 information or snooped around and got the
5 information.

6 On a number of occasions after
7 this -- now we're in a third time frame --
8 people in the executive chamber who were
9 still involved in the responses to all
10 these investigations, without explicitly
11 revealing anything, sort of insinuated to
12 me Lloyd, you just made an assumption that
13 Herb Teitelbaum told it to Hermann and
14 Hermann told it to you. And that built
15 upon this little doubt that I had based
16 upon this conversation with Hermann. So I
17 was starting to get the impression that
18 the way that that latter information about
19 the referral to the district attorney and
20 the composition of this committee of five,
21 et cetera, that that information might not
22 have gotten to Hermann precisely in the
23 way that I assumed it had.

24 So I called up Hermann, you
25 know, just tell me. I said, did Herb

1 L. Constantine
2 Teitelbaum tell you this stuff or did you
3 find out about this in some other way, and
4 this is what he told me. And I went back
5 over the whole course of events, you know,
6 you told me this stuff, a week later you
7 -- just in the same way that I've recited
8 it to you today and the same way that I
9 recited it to the district attorney's
10 staff back I believe in February of this
11 year. I said, come on, what happened
12 here. And this is what he told me.

13 What he told me was that he had
14 gotten this information in two ways; that
15 when he was at Teitelbaum's house, there
16 was a file or a piece of paper, you know,
17 on a surface and that he wasn't snooping
18 around -- this is what he said -- but this
19 piece of paper was out there conspicuously
20 and he looked at it and he learned some of
21 this information and that he got some of
22 the information from Teitelbaum in the
23 sense that Teitelbaum told him that a,
24 quote, referral had been made to the
25 district attorney.

1 L. Constantine

2 So the only thing that I know is
3 what I've heard and in this last
4 conversation that I had with Hermann he
5 said Teitelbaum told me there had been a
6 referral and some of this information I
7 got by looking at this file or this piece
8 of paper that had been left on this table
9 or on this desk.

10 And in teeing all this up to
11 him, I did whatever exactly what you said,
12 I said, Mr. Hermann, you told me this, you
13 told me that, and you told me this, and
14 one of the things I mentioned was the
15 referral and other thing I mentioned was
16 this committee of five. You told me that
17 day on either October 31 or November 1
18 about the referral and that they had
19 established this committee of five to deal
20 with this information exclusively and he
21 said, oh, no, no, that happened much
22 earlier, meaning the committee of five had
23 been established sometime well before this
24 referral. I said, well, you told it to me
25 that day. He said, I don't remember that,

1 L. Constantine
2 but that happened a long time before.
3 From all of this, your Honor,
4 this is what I believe happened. I
5 believe that, after I instructed Hermann
6 to stop talking to Herb Teitelbaum which
7 occurred on the sixth, the seventh, the
8 eighth, or 9th of August, I believe they
9 continued to talk about these issues.
10 Sometime between the beginning of August
11 and the end of October they had a
12 conversation and Teitelbaum told him about
13 the formation of the group of five and the
14 reason for that was the leaks that had
15 been occurring at the Integrity Commission
16 and had told him who those people were.
17 He, because I directed him to shut up and
18 not talk to him any more and not to tell
19 me about it, never told me about that.
20 But when this latter information came to
21 him about the referral to the district
22 attorney, he just that day disgorged
23 everything he knew and it was my
24 assumption that this group of five had
25 been constituted for the purpose of

1 L. Constantine
2 dealing exclusively with this referral
3 when, in fact, it had been created
4 sometime earlier to deal with this
5 institutional problem that they had at the
6 Integrity Commission about leaks.

7 Now, I realize that
8 unfortunately your witness today has now
9 become, you know, his own private
10 inspector general in coming to this
11 conclusion, but that is my conclusion here
12 that that's how this whole thing happened.
13 As I sit here, that's what I believe
14 happened.

15 Q. You buy that?

16 A. Excuse me?

17 Q. Do you buy that explanation?

18 A. It's the best that I have. I
19 don't know.

20 Q. Why then would he tell you on
21 that second occasion that Teitelbaum is
22 capable of anything, he will be saying
23 that he didn't tell me the information,
24 that he got it this other way? Why
25 would --

1 L. Constantine

2 A. I understand what you're saying.

3 Q. Why not just --

4 A. A lot of this is all very
5 embarrassing to Teitelbaum, I believe, and
6 it's embarrassing to Bob Hermann. I don't
7 think any of these people are bad people.
8 I think that they're both, you know, good
9 lawyers who've had good careers and all of
10 that. And through a series of
11 circumstances and some carelessness, all
12 of this occurred. But my best -- again, I
13 was never present when any of these
14 conversations occurred or any of this
15 looking at documents occurred so I don't
16 know, but my Inspector General Lloyd here,
17 I've given you my best on this. In July
18 and in early August, they were having a
19 series of conversations; that the
20 conversations that Teitelbaum was having
21 with Hermann was A, he was telling his
22 best friend about what his job is and what
23 he's doing and B, he was trying to get a
24 message separately to Lloyd Constantine.

25 In the latter time frame what I

1 L. Constantine
2 believe happened was that Hermann saw this
3 stuff by reading it and probably said
4 something to Teitelbaum saying oh, my God,
5 look at this and Teitelbaum said, well,
6 it's been referred to the district
7 attorney. And that between those two time
8 periods, they had continued to discuss
9 this and some weeks or months earlier than
10 that this group of five had been formed
11 and that was another thing that had
12 happened at the Integrity Commission which
13 Teitelbaum told Hermann about. And that
14 is my surmise. But that's what I think
15 happened.

16 Q. When you were interviewed by the
17 DA and referring to this date that we
18 believe may have been November 9, that's
19 when he was next in New York, "you asked
20 him why he did not want himself identified
21 as the source. Then he said something
22 which I'll never forget. And he said, I
23 know Herb Teitelbaum. He said, I know him
24 really well and I know what he's capable
25 of doing when he's backed into a corner.

1 L. Constantine
2 I said, what is he capable of doing. He
3 said, he's capable of doing anything to
4 protect himself. I said, like what. He
5 said, he's capable of claiming that he
6 didn't tell me any of this stuff; that I,
7 you know, came into possession of it some
8 other way. I said, like what. He said,
9 like I broke into his apartment and, you
10 know, saw it on his desk or, you know,
11 somehow came into it. In other words, he
12 didn't tell it to me, I stole the
13 information."

14 When he said he's capable of
15 saying that he did not tell me this
16 information, isn't that an affirmation
17 that he did? He's worried that he's going
18 to say something other than what's
19 factual.

20 A. And that's why, you know, with
21 both the seed of doubt that had been
22 placed in my head as a result of that
23 conversation and people with sort of body
24 language at the governor's office sort of
25 suggesting to me that I had jumped to an

1 L. Constantine
2 assumption about this information. Nobody
3 said to me, hey, you made a leap here
4 which was counterfactual because, in fact,
5 the information that Hermann got in the
6 latter time frame was information that he
7 simply picked up a file and read it.
8 Nobody said that to me. But they
9 insinuated that to me. It was insinuated
10 to me by people in the executive chamber,
11 in counsel's office.

12 This is of great concern to me.
13 People's reputations are at stake here.
14 So I just called up Hermann and said tell
15 me what happened. What he told me was I
16 read this file, it was open and out there
17 and I wasn't snooping around but I read
18 this file and I got this information and I
19 had a brief conversation with Teitelbaum
20 and Teitelbaum told me that it had been
21 referred to Soares' office and that he
22 challenged me about the part having to do
23 with the group of five. He said, did I
24 tell that you day? Because that happened
25 months before. I said, well, it might

1 L. Constantine
2 have happened months before but you told
3 it to me that day. It was my assumption
4 that this group had been formed to deal
5 with this highly sensitive information
6 which was getting you to shake all over
7 the place.

8 Q. Mr. Constantine, a little while
9 ago you had the impression, in response to
10 a question from me, that he had just
11 learned that information and that's why he
12 was in a state of agitation.

13 A. I believe the information that
14 he had just learned was of the referral.
15 To him the part which was -- he's
16 explicitly said this, the former
17 communications director to the governor is
18 now under investigation for a felony at
19 the DA's office. He viewed this as being
20 World War III. And I did not view it as
21 being of that magnitude. Frankly we all
22 bring into any experience our own
23 experience. I didn't think this was a
24 charge that would hold up. I thought all
25 of this involved nuance and shading of

1 L. Constantine
2 testimony and all that. But he thought it
3 was, you know, a terrible and dire
4 circumstance and I believe, when he
5 revealed that to me, he had just come into
6 possession of that information.

7 Q. The referral?

8 A. Yes. But I believe now, based
9 upon the subsequent conversation, that he
10 learned about the group of five sometime
11 after early August and before then. But I
12 don't know.

13 Q. From Teitelbaum?

14 A. I believe so.

15 Q. So what was it that he learned
16 on the piece of paper or the notes or the
17 file, what did he learn? You said that
18 the group of five --

19 A. I don't know, I don't know. I
20 believe that it had to do with the, you
21 know, with the referral of this
22 investigation. He might have seen
23 something on that piece of paper. I just
24 don't know.

25 Q. But he decided, as I understand

1 L. Constantine
2 it, the information into two sources. The
3 referral came directly from Teitelbaum;
4 correct?

5 A. Uh-huh. Or was confirmed by
6 Teitelbaum. In other words, the piece of
7 paper might have said, you know, we've
8 referred this over to Soares and he might
9 have confronted Teitelbaum with it and
10 Teitelbaum might have confirmed it.

11 What he did was he confirmed to
12 me that Teitelbaum said something to him
13 which was either conveyed or confirmed the
14 referral from the Integrity Commission to
15 the DA.

16 Q. But that could not have happened
17 outside your office on November 1 that
18 caused him to be so agitated.

19 A. I don't know. I don't know when
20 it happened. I assumed it happened. My
21 sense of this is that this piece of paper
22 that he read and this brief conversation
23 he had with Teitelbaum was in Teitelbaum's
24 apartment.

25 Q. An awful lot of information he

1 L. Constantine
2 conveyed to you on November 1. You said
3 it took fifteen minutes with in and out.
4 The names of the special committee, the
5 Cuomo reports, statements to Cuomo, all of
6 that?

7 A. Right.

8 Q. Does he wear glasses, by the
9 way?

10 A. Who?

11 Q. Hermann.

12 A. I believe so. I believe so.
13 That's one of these things, you know, you
14 know somebody so well that you don't
15 notice what they're wearing. I believe he
16 does.

17 Q. Have you ever spoken to
18 Teitelbaum about this?

19 A. Nothing, never. I've met with
20 Teitelbaum several times. I met with him
21 during Christmas just before he went to
22 South America on vacation with his wife
23 and I met with him again with John Feerick
24 in February at Feerick's offices over near
25 Fordham University.

1 L. Constantine

2 Q. On November 1, and I think you
3 can accept --

4 A. Yeah, I will.

5 Q. On November 1, after you learned
6 the information and communicated it to
7 other people, Lieberman, Nocenti, Pope?

8 A. I never talked directly to
9 Nocenti about this.

10 Q. Pope?

11 A. I talked to the governor, I
12 spoke to Lieberman, and I know that the
13 information was conveyed to others, and I
14 believe I might have directly conveyed it
15 to Richard Rifkin. Eventually Pope -- I'm
16 not sure about Pope. Eventually Nocenti
17 knew about it, Maloney knew about it, and
18 Rifkin knew about it.

19 Q. And they knew it came from
20 Hermann?

21 A. Yes.

22 Q. Was there any discussion when
23 you conveyed it to these people?

24 A. You know, I don't know whether I
25 conveyed it to them or whether it was

1 L. Constantine
2 conveyed secondarily because the next day
3 I took off for Madison, Wisconsin. There
4 was some phone conversations, there may
5 have been some e-mail traffic, but I don't
6 know. I do know that certainly by within
7 two days at least Richard Rifkin knew
8 about it, at least Nocenti knew about it,
9 and at least Maloney knew about it. I'm
10 not sure that Pope ever did.

11 Q. Mr. Constantine, you referred to
12 the time period when you actually
13 confronted Hermann.

14 Was that before or after you met
15 with the DA?

16 A. It was after I met with the DA,
17 well after. It was after a couple of sort
18 of head fakes from people like Steve
19 Krantz in the governor's office and Terryl
20 Brown-Clemons, sort of like, you know,
21 we've got your transcript, Lloyd, and you
22 think this happened. They were sort of
23 conveying to me that you made a leap
24 there, Lloyd, and maybe you were wrong.

25 I don't want to be wrong about

1 L. Constantine
2 this stuff and I didn't particularly want
3 to be involved in this stuff, quite
4 frankly. I was never asserting a
5 complaint against anybody. This all
6 happened because Hermann tells me this, I
7 go to ethics counsel, ethics counsel
8 directs the governor's office to then tell
9 the DA, and then the DA opens an
10 investigation. We never went to the DA
11 and said, district attorney, you should be
12 investigating the Integrity Commission for
13 having no integrity. We were not looking
14 to assert any kind of claim against
15 anybody. We were directed by ethics
16 counsel to tell the district attorney that
17 we had come into possession of this
18 information and how we had come into
19 possession of this information and on his
20 own initiative, the district attorney
21 began, as I understand it, an
22 investigation as to whether or not this
23 constituted a violation of something. But
24 neither I nor the chamber, while I was
25 there, was trying to assert any kind of a

1 L. Constantine

2 claim against anybody.

3 Q. Mr. Constantine, after you
4 conveyed the information to the people on
5 November 1, you were with your daughter in
6 Wisconsin on November 2. You know they
7 met with the DA on November 2. And I
8 think at that meeting, when they related
9 to the DA they had come into information
10 that they felt they should not have had,
11 he called Teitelbaum.

12 Are you aware of that?

13 A. No, I'm not familiar with that.

14 Q. Did anybody ever tell you that
15 the DA confronted Teitelbaum?

16 A. No, no. I do know that I was
17 upstate with a group of my subordinates I
18 believe in February and I got a phone call
19 on my chamber Blackberry asking me for
20 permission for my transcript, the
21 transcript of my interview with the DA to
22 be read to John Feerick or a copy of it to
23 be provided to John Feerick. I was called
24 by Terry Brown-Clemons and asked for
25 permission. Because one of the things I

1 L. Constantine
2 said to the district attorney staff when I
3 was interviewed is that I don't want my
4 interview to be revealed to anybody
5 without my permission and they obeyed
6 that. So they called me up and said, we
7 want to read your transcript and provide a
8 copy of your transcript to John Feerick.
9 I said, when. They said, now, he's
10 sitting here. I said, okay. The only
11 proviso is that you don't read portions of
12 it, he has to hear the entirety of it.

13 Q. When did the series of
14 confrontations -- not confrontations,
15 conversations take place where they said,
16 Lloyd, you're a nice guy, didn't you make
17 a mistake?

18 A. They didn't say that but that
19 was the inference.

20 Those happened in the period I
21 would say in the last two months in the
22 governor's office meaning late
23 February/early March and then March
24 through April. I stayed on -- after Eliot
25 resigned, I stayed on for a few weeks to

1 L. Constantine
2 help the new governor transition and that
3 was also a period when everything was in
4 transition and during those crazy few
5 weeks -- I work on the second floor,
6 counsel's office is across the hall and I
7 ran into Terryl and Steve Krantz a few
8 times and I remember a couple of occasions
9 where they sort of like raised their
10 eyebrows at me in such a way that took the
11 little bit of doubt that I had based upon
12 that conversation with Hermann, which you
13 have pegged to be roughly November 9, and
14 then it started to be okay, you made an
15 assumption which might have been
16 counterfactual. So I had that little bit
17 of doubt based upon that conversation on
18 November 9 and then, after a conversation
19 with Terryl or Steve, I had a little more
20 doubt and then after another conversation
21 with Terryl or Steve, I had a little more
22 doubt and so eventually I called up
23 Hermann and I said, hey, this is serious,
24 people may get in trouble, so tell me what
25 happened here. And that's the third thing

1 L. Constantine

2 that happened here.

3 I've got to go. I'm happy to
4 come back, but I've got to go.

5 MS. OSTERER: Have you ever
6 spoken to Mr. Hermann about the
7 inspect general's investigation, this
8 investigation?

9 THE WITNESS: I saw Mr. Hermann
10 at a social event and I told him that
11 the inspector general's office had
12 called me and I told him I would be
13 going in. I didn't tell him what I
14 would be saying, I didn't ask him
15 whether he had been called, but I told
16 him, yes.

17 MS. OSTERER: Did he respond in
18 any way?

19 THE WITNESS: No. He said he
20 knew about the investigation.

21 Q. Do you know Stuart Jones?

22 A. No, I don't. I also told the
23 counsel's office that I had been called.
24 I called Terry and Steve. I assumed that
25 they'd want documents from the chamber so

1 L. Constantine
2 I said whatever you send over to the
3 inspector general please provide me with a
4 copy of those.

5 Q. Can you tell us again who
6 specifically suggested that you may have
7 made the wrong assumptions?

8 A. The two people who inferred that
9 were Terryl Brown-Clemons and Steve
10 Krantz, both in the counsel's office.
11 Terryl is the acting counsel to the
12 governor and Steve is one of the deputies.
13 They were involved in the responses to all
14 these investigations as well.

15 Q. When did those conversations
16 take place?

17 A. They took place in I would say
18 the time frame of very late February to
19 very early April. I believe I went in to
20 talk to the district attorney in late
21 February and so I would say that's
22 probably a six or seven-week time period.
23 Again, nobody said, hey, we got your
24 transcript, Lloyd, you were wrong. But it
25 was in the same way you asked me, did Mr.

1 L. Constantine
2 Hermann tell you that Teitelbaum told him?
3 They sort of posed that question to me in
4 a way that suggested -- it built upon the
5 doubt which had been placed in my mind by
6 virtue of that conversation that I had
7 with Hermann on or about November 9.

8 Q. You had no doubt when you
9 testified before Soares.

10 A. Except when I testified before
11 Soares, as you see in my -- I can't
12 remember exactly --

13 Q. You said it never occurred to
14 you.

15 A. It never occurred to me until
16 that later conversation with Hermann that
17 placed a scintilla of doubt in my mind and
18 I felt duty bound to testify to it.

19 Q. Had you not had the
20 conversations with the people from
21 counsel's office, would that doubt ever
22 have risen to this extent?

23 A. I don't know, I don't know. I
24 do know that it was a little bit here from
25 the conversation with Hermann and then it

1 L. Constantine
2 was built upon by a subsequent
3 conversation with Krantz or Terryl
4 Brown-Clemons and then it was built on a
5 little bit more by a third conversation
6 with one or the other of those two lawyers
7 and a combination of the three said, okay,
8 call up Hermann before you make another
9 error here.

10 Q. It was clear that this was a
11 leap, that it was just an assumption on
12 your part?

13 A. It was never explicit, it just
14 was -- you know, I am an investigator
15 myself. I'm someone who's conducted a few
16 thousand depositions and so I am very
17 sensitive to these issues and it's just
18 built this doubt up in my head.

19 Q. What business was it of theirs?

20 A. I don't know. I don't know.
21 The business of theirs is that they are
22 the poor bastards who have to deal with
23 all of this now and they are doing the
24 best that they can.

25 MR. FISCH: I'll let you go. I

1 L. Constantine

2 appreciate you --

3 THE WITNESS: If you need me
4 back, I'll come back.

5 MR. FISCH: I'm reminded in the
6 situation you find yourself in, 1952
7 when Adele Stevenson had the
8 nomination to run against Eisenhower,
9 he said in essence would that this cup
10 had been passed to other hands.

11 THE WITNESS: I remember that
12 election, too, and I remember thinking
13 -- I went to a certain bank in Queens
14 with my mother to vote and I thought
15 there were two ballot boxes because
16 one was an Eisenhower box and one was
17 a Stevenson box and I knew my father
18 was voting for Eisenhower and I knew
19 my mother was voting for Stevenson.
20 And, being a male chauvinist, when my
21 mother went to vote for Stevenson, I
22 threw myself at her legs and grabbed
23 her and I said, Mommy, don't vote in
24 the Stevenson box, vote in the
25 Eisenhower box.

1

2

(TIME NOTED: 11:32 a.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

CERTIFICATION BY REPORTER

3

4

I, Wayne Hock, a Notary Public of the

5

State of New York, do hereby certify:

6

That the testimony in the within

7

proceeding was held before me at the

8

aforesaid time and place;

9

That said witness was duly sworn

10

before the commencement of the testimony,

11

and that the testimony was taken

12

stenographically by me, then transcribed

13

under my supervision, and that the within

14

transcript is a true record of the

15

testimony of said witness.

16

I further certify that I am not

17

related to any of the parties to this

18

action by blood or marriage, that I am not

19

interested directly or indirectly in the

20

matter in controversy, nor am I in the

21

employ of any of the counsel.

22

IN WITNESS WHEREOF, I have hereunto

23

set my hand this day of

24

, 2008.

25
